

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MFALME EL BEY,

Plaintiff,

v.

CITY OF CENTRALIA, TOM ASHBY, DAVID SAUER, WILLIAM "BILL" SMITH, HOWARD JONES, BOBBY PATTON, BRIAN ATCHISON, GREG DODSON, MICHAEL PEEBLES, MARION COUNTY SHERIFF DEPARTMENT, RICH STEVENSON, ANTHONY DECKER, MARK MILLER, STEVE FOX and JOHN DOES 1-5,

Defendants.

Case No. 19-cv-476-JPG-MAB

**MEMORANDUM AND
ORDER TO SHOW CAUSE**

This matter comes before the Court on plaintiff Mfalme El Bey's motion for leave to proceed *in forma pauperis* (Doc. 3). A federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious, or fails to state a claim. 28 U.S.C. § 1915(e)(2)(B)(i) & (ii). The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983). An action fails to state a claim if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). When assessing a petition to proceed *in forma pauperis*, a district court should inquire into the merits of the petitioner's claims, and if the court finds them

to be frivolous, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

The Court is puzzled by some apparent contradictions between El Bey's complaint, in which he implies he owns at least two houses into which he claims some of the defendants unlawfully broke, and his motion for leave to proceed *in forma pauperis*, in which he declares under penalty of perjury that he owns no real estate. Before the Court examines the merits of El Bey's complaint to see if it is frivolous, malicious, or fails to state a claim, the Court must clear up El Bey's financial situation. The Court therefore **ORDERS** El Bey to **SHOW CAUSE** on or before June 14, 2019, why the Court should not (1) deny his motion to proceed *in forma pauperis* because he is not indigent and/or (2) dismiss this case for untruthful statement of his assets in his motion for leave to proceed *in forma pauperis*.

IT IS SO ORDERED.
DATED: May 13, 2019

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE